



State Contracting and the Federal Immigration Reform and Control Act

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BACKGROUND

The federal Immigration Reform and Control Act (IRCA) requires employers to hire only individuals who may legally work in the United States. Legal workers are U.S. citizens, non-citizen nationals, lawful permanent residents, and aliens authorized to work. To comply with federal law, employers must use the federal I-9 form to verify the identity and employment authorization of each person they hire. The I-9 form requires the employer to attest that each employee's work status has been verified by examining official government-issued documents, such as a passport or birth certificate, and requires the employee to attest that he or she is authorized to work in the United States. The federal government also maintains E-Verify — a free, online system that employers can use to complement, but not replace, the paper-based verification process. In 2012-2013, Virginia state agencies and certain state contractors will be required to use E-Verify for newly hired employees.

The U.S. Immigration and Customs Enforcement agency is responsible for monitoring and enforcing compliance with IRCA. The agency criminally prosecutes employers that knowingly hire unauthorized workers and also arrests unauthorized workers that it finds. It may also levy financial penalties on employers that knowingly employ unauthorized workers.

KEY FINDINGS

In our review of how Virginia agencies ensure that contractors comply with IRCA by verifying whether employees are authorized to work in the United States, we noted the following:

- The role of state agencies in monitoring IRCA compliance is primarily limited to incorporating certain terms and conditions into state contracts. The majority of state agencies take no further action to monitor compliance.
- There is currently no defined way for state agencies to either (1) be informed of an IRCA violation should one occur or (2) ascertain whether an employer is violating IRCA by hiring unauthorized workers.